IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

MONDAY, THE 2ND APRIL 2007 / 12TH CHAITHRA 1929

Tr.P(Crl.).No. 26 of 2007()

CC.590/2006 of J.M.F.C., PUNALUR

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PETITIONER: ACCUSED

ANIL KUMAR,
S/O. CHANDRASEKHARA PILLAI
AGED 34, ASWATHY BHAVAN,
PANAYANCHERRY, ANCHAL

BY ADV. SRI.T.S.JOHN
SRI.M.S.RADHAKRISHNAN NAIR

RESPONDENTS: STATE/COMPLAINANT

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1. STATE OF KERALA, REPRESENTED
BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM

2. PONNAMMA,
SALIN SADANAM, MUTHALATTU
ALAYAMON, EROOR VILLAGE

BY ADV. SRI.C.R.SIVAKUMAR
SRI.SANTHOSH PETER (MAMALAYIL)
PUBLIC PROSECUTOR SRI.C.M.KAMMAPPU

THIS TRANSFER PETITION (CRIMINAL) HAVING BEEN FINALLY HEARD ON 02/04/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J.

Tr.P.(Crl.).No.26 of 2007

Dated this the 2nd day of April 2007

O R D E R

The petitioner is the accused in a prosecution under Sections 420 and 427 I.P.C. It is submitted that the crime was registered on the basis of a private complaint filed by the complainant which was referred to the police under Section 156 (3) Cr.P.C. Investigation is complete. Final report has been filed. Cognizance has been taken.

2. The petitioner has come before this court with a prayer for transfer of the case. The short plea raised by him is that he is an advocate clerk practising in the very same court where the prosecution against him is pending. Witnesses who are to tender evidence against him are all advocates who regularly practise before that court. This situation may result in justice being denied to him. He may be saved of the embarrassment of facing trial in the same court. As witnesses are persons appearing regularly before the same court, he apprehends that justice may be denied to him.

3. The application is opposed by the learned counsel for the second respondent. Notwithstanding the opposition, I am satisfied that the petitioner's grievance deserves sympathetic and favourable consideration. I am satisfied that there can be a direction for transfer of the case to any other court. There is no dispute that the court at Kottarakkara is the nearest court.

4. In the result, this Criminal Miscellaneous Case is allowed. C.C.No.590/06 pending before Judicial First Class Magistrate Court, Punalur is transferred to the court of the learned Judicial First Class Magistrate -I, Kottarakkara. The learned Magistrate of Punalur shall forthwith forward the records to the Judicial First Class Magistrate Court-I, Kottarakkara. The petitioner shall appear before the Judicial First Class Magistrate Court-I, Kottarakkara without waiting for any further directions on 14/05/2007.

5. Communicate copies of this order to both courts.

(R.BASANT, JUDGE)

jsr

R.BASANT, J

C.R.R.P.No.

ORDER

21ST DAY OF JULY 2006